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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/248,465 02/11/99 ANDERSON

J TESTP0101US

TM02/0605

EXAMINER

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ART UNIT

PAPER NUMBER

2177

DATE MAILED:

06/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/248,465	ANDERSON ET AL.
Examiner	Art Unit	
Debbie M Le	2177	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 11 February 1999.

2a) This action is FINAL.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

15) Notice of References Cited (PTO-892)

16) Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.

18) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

19) Notice of Informal Patent Application (PTO-152)

20) Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Objections***

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10, 13-14, 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sonnenfeld (US Patent 6,112,049).

As per claim 1, Sonnenfeld discloses a system for generating a test comprising: providing a host system and a plurality of remote terminals operatively coupled to the internet (col. 1, lines 5-9, col. 3, lines 12-45); inputting questions at one of the remote terminals; compiling the questions at the host system to make a compiled test (col. 12, lines 56-65).

As per claim 2, Sonnenfeld teaches the steps of providing a home page that is accessible to both potential test-makers and test-takers and that allows users to cast themselves as either a test-maker or a test-taker (col. 13-14, lines 65-10, col. 16, lines 25-35).

As per claim 3, Sonnenfeld teaches wherein the test-maker is required to input an identifier (col. 17-18, lines 1-3).

As per claim 4, Sonnenfeld teaches the step of editing a compiled test (col. 8, lines 13-27, col. 18, lines 58-61).

As per claim 5, Sonnenfeld teaches wherein the step of posting the step includes placing the compiled test in a directory for access by potential test-takers (col. 13, lines 37-42, col. 15-16, lines 4-7, col. 66, lines 54-63).

As per claim 6, Sonnenfeld teaches wherein the directory has a plurality of categories corresponding to different types of tests and wherein the compiled test is placed in the appropriate category (col. 6, lines 2-3, 57-58, col. 9, lines 17).

As per claim 7, Sonnenfeld teaches wherein the step of placing the compiled test in a directory includes the steps of placing a just-made test into a temporary category, reviewing the test to determine the appropriate category, and then placing the test into the appropriate category (col. 18, lines 24-26).

As per claim 8, Sonnenfeld teaches the step of receiving input from the test-maker as to the appropriate category (col. 13, lines 30-56).

As per claim 9, Sonnenfeld teaches wherein the test-taker chooses a test from the directory (col. 14, lines 31-46).

As per claim 10, Sonnenfeld teaches wherein the test-taker is allowed to preview the test chosen from the directory (col. 16, lines 36-66).

As per claim 13, Sonnenfeld teaches wherein the compiled test is placed in a restricted directory and the test-taker must have know a password to access the compiled test (col. 14, lines 57-67, col. 15, lines 33-50, col. 20-21, lines 31-5).

As per claim 14, Sonnenfeld teaches:

providing a host system and a plurality of remote terminals operatively coupled to the Internet (col. 1, lines 5-9, col. 3, lines 12-45);

placing a test in a restricted directory for potential test-takers (col. 12, lines 56-65);

requiring a test-taker to input a password to have access to the restricted directory (col. 7, lines 15-23).

As per claim 18, Sonnenfeld teaches:

a first computer operatively coupled to the Internet, the first computer including software means for generating the test and software means for posting the test on the Internet (col. 1, lines 5-9, col. 3, lines 12-45, col. 12, lines 56-65); and

a second computer operatively coupled to the Internet, the second computer operative to allow a user to take the test and receive test results (col. 5-6, lines 48-25).

Claim 19 and 20 are rejected by the same rationale as stated in independent claim 1 argument.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 11-12, 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sonnenfeld (US Patent 6,112,049) in view of Barber (US Patent 5,903,777).

As per claim 11, Sonnenfeld does not explicitly teach wherein a test-taker is required to pay to take the compiled test. However, Barber teaches a consumer is required to pay to access a page (title, abstract, fig. 2, col. 6, lines 6-39). Thus, it would have been obvious to one of ordinary skills in the art at the time the invention was made to combine the teachings of Sonnenfeld with Barber to implement the process of charging a fee for accessing information provide over internet because it would meet the user's need for access in way that is secure but fast.

As per claim 12, Barber teaches wherein the consumer and the proprietor of the host system share the revenues generated by the consumer (col. 5-6, lines 7-4).

As per claim 15, Sonnenfeld teaches the restricted directory includes academic practice tests (col. 24, lines 29-35), but Sonnenfeld does not explicitly teach wherein a school enrolls students at a set cost per school year. However, Barber teaches a school enrolls students at a set cost [credit unit] per school year (fig. 2, # 22a-c). Thus, it would have been obvious to one of ordinary skills in the art at the time the invention was

made to combine the teachings of Sonnenfeld with Barber to provide a consumer with application to open consumers' account and purchase credit units in the way they wishes. For an example, consumer wish to be a monthly or yearly membership of. Because with this kind of account, it would allow consumer to access the information on the internet wherever, whenever they wish to (col. 1, lines 23-40).

As per claim 16-17, Barber teaches wherein the charge for the restricted directory is based on per time a consumer accesses a page; take a test (fig. 3, 4b, col. 6-7, lines 63-8).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art made of record, listed on form PTO-892, and not relied upon, if any, is considered pertinent to applicant's disclosure.

If a reference *indicated as being mailed* on PTO-FORM 892 has not been enclosed in this action, please contact Macia Fletcher whose telephone number is (703) 305-4903 for faster service.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debbie M Le whose telephone number is (703) 308-6409. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (703) 305-9790. The fax phone numbers

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for the organization where this application or proceeding is assigned are (703) 308-5357 for regular communications and (703) 308-5357 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



Debbie Le  
June 1, 2001



JOHN BREENE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100